

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

JOHN P. POLCASTRO, SR.,

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Plaintiff,

*

v.

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1:05-CV-909-MEF
(WO)

SHERIFF GREY WARD, *et al.*,

*

Defendants.

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* * * * *

JOHN P. POLCASTRO, SR., #245 168

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Plaintiff,

*

v.

*

1:05-CV-910-MEF
(WO)

GARY WEEKS, *et al.*,

*

Defendants.

*

RECOMMENDATION OF THE MAGISTRATE JUDGE

These 42 U.S.C. § 1983 actions were filed by Plaintiff on September 23, 2005.¹ On September 29 and September 30, 2005 the court entered orders of procedure which instructed Plaintiff, among other things, to inform the court of any change in his address. (*See* Civil

¹By order entered June 30, 2006 the above-captioned cases were consolidated and Civil Action No. 1:05-CV-909-MEF was designated as the lead case. (*See* Doc. No. 19, 1:05-CV-909-MEF.)

Action No. 1:05-cv-909-MEF, Doc. No. 5, ¶5(h) and Civil Action No. 1:05-cv-910-MEF, Doc. No. 3, ¶6(h).)

It recently came to the court's attention that Plaintiff is no longer residing at the most recent address he provided to the court. Consequently, the court entered an order on April 5, 2007 directing Plaintiff to provide the court with his present address on or before April 16, 2007. (Doc. No. 34.) Plaintiff was cautioned that his failure to comply with the court's April 5 order would result in a recommendation that this case be dismissed. (*Id.*) Because Plaintiff has filed nothing in response to this order, the court concludes that this case should be dismissed.

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be DISMISSED without prejudice for Plaintiff's failures to prosecute this action properly and to comply with the orders of this court.

It is further

ORDERED that the parties are DIRECTED to file any objections to the Recommendation on or before **May 7, 2007**. Any objections filed must specifically identify the findings in the Magistrate Judge's Recommendation to which the party objects. Frivolous, conclusive or general objections will not be considered by the District Court. The parties are advised that this Recommendation is not a final order of the court and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and recommendations in the

Magistrate Judge's report shall bar the party from a *de novo* determination by the District Court of issues covered in the report and shall bar the party from attacking on appeal factual findings in the report accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982). *See Stein v. Reynolds Securities, Inc.*, 667 F.2d 33 (11th Cir. 1982). *See also Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981) (*en banc*), adopting as binding precedent all of the decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981.

Done, this 26th day of April, 2007.

/s/ Wallace Capel, Jr.
WALLACE CAPEL, JR.
UNITED STATES MAGISTRATE JUDGE